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**GENERAL SERVICES ADMINISTRATION**

**48 CFR Parts 501, 537, and 552**

**[(Change 59); GSAR Case 2013-G501; Docket No. 2014-0010;**

**Sequence No. 1]**

**RIN 3090-AJ46**

**General Services Administration Acquisition Regulation;  
(GSAR); Qualifications of Offerors**

**AGENCIES:** Office of Acquisition Policy, General Services Administration (GSA).

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) to remove the GSAR provision Qualifications of Offerors.

**DATES:** Effective: [Insert date of publication in the **FEDERAL REGISTER.**]

**FOR FURTHER INFORMATION CONTACT:** Ms. Christina Mullins, Procurement Analyst, by phone at 202-969-4066, or by email at [christina.mullins@gsa.gov](mailto:christina.mullins@gsa.gov), for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755. Please cite GSAR Case 2013-G501.

**SUPPLEMENTARY INFORMATION:**

## **I. Background**

GSA published a proposed rule in the Federal Register at 79 FR 24361 on April 30, 2014, amending the General Services Administration Acquisition Regulation (GSAR), to remove GSAR provision 552.237-70, Qualifications of Offerors, and provide other conforming changes. No comments were received on the proposed rule by the June 30, 2014 closing date.

This rule is a result of the Retrospective Analysis conducted under Executive Order 13563. Executive Order 13563 required agencies to review existing regulations and identify rules that are obsolete, unnecessary, unjustified, excessively burdensome or counterproductive and identify those rules that warrant repeal, amendment, or revision. The General Services Administration (GSA) identified GSAR provision 552.237-70 in GSA's Final Plan for Retrospective Analysis approved by the Office of Management and Budget on August 18, 2011. GSA's Final Plan for Retrospective Analysis was published in the Federal Register on June 3, 2011, welcoming public comments. No comments were received. The GSA's Final Plan was also posted on [www.gsa.gov/open](http://www.gsa.gov/open).

## **II. Discussion and Analysis**

GSAM Provision 552.237-70, Qualifications of Offerors, was utilized to support GSA's Public Buildings Service as outlined in GSAM 537.110. The provision requires all offerors considered for award for building services expected to exceed the simplified acquisition threshold and not initiated with Ability One under the Javis-Wagner-O-Day Act to furnish:

- Narrative statement listing comparable contracts performed.
- A general history of operating organization and complete experience.
- A statement of financial resources.
- Information on ability to maintain a staff of regular employees adequate to ensure continuous performance of the work.
- Demonstration that equipment and/or plant capacity for the work contemplated is sufficient, adequate and suitable.
- Information on competency in performing comparable building service contracts, acceptable financial resources, personnel staffing, plant, equipment and supply sources.

As a result of the Retrospective Analysis, GSA determined that the GSAR provision, 552.237-70, Qualifications of Offerors, is obsolete and is no longer necessary. The collection of information associated with this provision is captured in a variety of methods such as: compliance with FAR Part 9 including pre-award information, System for Award Management (SAM) reports and receipt of contractor's proposal information submitted in response to the Government technical evaluation criteria.

The specific changes contained in this rule are as follows:

- Information Collection 3090-0197, Qualifications of Offerors is deleted in its entirety.
- Under Subpart 501.106—Delete GSAR reference to Information Collection 3090-0197 and GSAR Provision 552.237-70.
- Under GSAR 537.110, Solicitation provisions and contract clauses—Delete GSAR 537.110(a)(1).
- Under GSAR 552.2, Provisions and Clauses—GSAR 552.212-71, Contract Terms and Conditions Applicable to GSA Acquisition of Commercial Items, delete paragraph (a), and designate the clause introductory text as paragraph (a) and revise.

- Under GSAR 552.2, Provisions and Clauses—Delete Provision 552.237-70 in its entirety.

### **III. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

### **IV. Regulatory Flexibility Act**

GSA has prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The FRFA is summarized as follows:

This final rule reduces the burden on small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., as the Information Collection 3090-0197, citing provision 552.237-70, Qualifications of Offerors, is no longer needed and is removed from the GSAR. Both large and

small business entities will no longer be bound to submit data that the Government can freely obtain from a variety of other sources.

There were no comments by the public in response to the Initial Regulatory Flexibility Analysis provided in the proposed rule. No comments were filed by the Chief Counsel for Advocacy of the Small Business Administration.

This rule does not impose any new information collection requirements on small businesses. It will have no direct negative impact on any small business concern.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

#### **V. Paperwork Reduction Act**

OMB approved the withdrawal and discontinuation of the Information Collection 3090-0197 (Qualifications of Offerors) identifying GSAR Provision 552.237-70 on October 24, 2011. Therefore, this final rule does not contain any information collection requirements that require additional approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. Chapter 35).

**List of Subjects in 48 CFR Parts 501, 537, and 552**

Government procurement.

Dated: October 10, 2014.

Jeffrey A. Koses,  
Senior Procurement Executive,  
Office of Acquisition Policy,  
Office of Government-wide Policy.

Therefore, GSA amends 48 CFR parts 501, 537, and 552 as set forth below:

1. The authority citation for 48 CFR parts 501, 537, and 552 continues to read as follows:

**Authority:** 40 U.S.C. 121(c).

**PART 501—GENERAL SERVICES ADMINISTRATION ACQUISITION  
REGULATION SYSTEM**

**501.106 [Amended]**

2. Amend section 501.106, in the table, by removing GSAR Reference "552.237-70" and its corresponding OMB Control Number "3090-0197".

**PART 537—SERVICE CONTRACTING**

3. Amend section 537.110 by revising paragraph (a) to read as follows:

**537.110 Solicitation provisions and contract clauses.**

\* \* \* \* \*

(a) If the contract is expected to exceed the simplified acquisition threshold and it is not initiated with Ability One under the Javits-Wagner-O'Day Act insert 552.237-71, Qualifications of Employees, in the solicitation and contract. If needed, use supplemental provisions or clauses to describe specific requirements for employees performing work on the contract.

\* \* \* \* \*



**PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

**552.212-71 [Amended]**

4. Amend section 552.212-71 by—

- a. Revising the date of the clause;
- b. Removing paragraph (a); and
- c. Redesignating the clause introductory text as

paragraph (a) and revising it to read as follows:

**552.212-71 Contract Terms and Conditions Applicable to  
GSA Acquisition of Commercial Items.**

\* \* \* \* \*

**CONTRACT TERMS AND CONDITIONS APPLICABLE TO GSA ACQUISITION OF COMMERCIAL  
ITEMS (OCT 2014)**

(a) The Contractor agrees to comply with any clause that is incorporated herein by reference to implement agency policy applicable to acquisition of commercial items or components. The clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The clauses in paragraph (b) of this section are incorporated by reference:

[The Contracting Officer should check the clauses that apply or delete the clauses that do not apply from the list. The Contracting Officer may add the date of the clause if desired for clarity.]

\* \* \* \* \*

**552.237-70 [Removed and Reserved]**

5. Remove and reserve section 552.237-70.

**[BILLING CODE 6820-61]**

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